

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANNABEL K. MELONGO

Plaintiff,

V.

ASA ROBERT PODLASEK; ASA JULIE GUNNIGLE; INVESTIGATOR KATE GARCIA (NÉE O'HARA) (STAR No. 423); INVESTIGATOR JAMES DILLON (STAR No. 1068); INVESTIGATOR ANTONIO RUBINO (STAR No. 5043); INVESTIGATOR RICH LESIAK (STAR No. 5000); ASST. ATTY. GENERAL KYLE FRENCH; COOK COUNTY; SCHILLER PARK DET. WILLIAM MARTIN; VILLAGE OF SCHILLER PARK; CAROL SPIZZIRRI

Defendants.

Case No.13-CV-4924

Honorable Judge John Z. Lee

Magistrate Judge Sunil R. Harjani

STIPULATION TO DISMISS CLAIMS AGAINST
THE COOK COUNTY DEFENDANTS WITH PREJUDICE

Plaintiff Annabel K. Melongo, and all Defendants, by and through their attorneys, jointly
move this Honorable Court to grant the following relief:

1. The parties to the above-captioned litigation reached a binding settlement agreement during a settlement conference before Magistrate Judge Sunil R. Harjani on August 15, 2019.
2. The parties agreed that “Plaintiff shall file stipulation to dismiss with prejudice and without costs or attorney’s fees as to a defendant only when full payment has been made for that defendant.” [Dkt. No. 363].
3. Full payment has been made by Defendants Robert Podlasek; Julie Gunnigle; Kate

Garcia; James Dillon; Antonio Rubino; Rich Lesiak; and Cook County (collectively, the “Cook County Defendants”).¹

4. Accordingly, the parties stipulate to the dismissal of all of Ms. Melongo’s claims against the Cook County Defendants, with prejudice and without costs, because the matter has been settled to the mutual satisfaction of those parties. *See* Fed. R. Civ. P. 41(a)(1)(ii) (allowing voluntary dismissal of an action without a court order by filing “a stipulation of dismissal signed by all parties who have appeared”).
5. If the Court determines that dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(ii) is not appropriate because this stipulation does not dispose of the entire action, Ms. Melongo and the Cook County Defendants respectfully request that the Court enter an order pursuant to Fed. R. Civ. P. 21, which allows the Court to “on just terms, add or drop a party.” *Compare Harvey Aluminum, Inc. v. Am. Cyanamid Co.*, 203 F.2d 105, 108 (2d Cir. 1953) (“Rule 41(a)1 provides for the voluntary dismissal of an ‘action’ not a ‘claim’; the work ‘action’ as used in the Rules denotes the entire controversy, whereas ‘claim’ refers to what has traditionally been termed ‘cause of action.’”), *with Winterland Concessions Co. v. Smith*, 706 F.2d 793, 796 (7th Cir. 1983) (assuming, without deciding, that *Harvey*’s interpretation of “an action” was incorrect).
6. Ms. Melongo is not dismissing her claims against Defendants Kyle French or Carol Spizzirri at this time, as Ms. Melongo has not received full settlement payment from those Defendants as required under the settlement agreement. [Dkt. No. 363].

¹ Full payment has also been made by Defendants Village of Schiller Park and William Martin. The Parties filed a stipulation to dismiss with respect to Defendants Schiller Park and Martin on October 24, 2019, and the Court entered an order dismissing the claims against Defendants Schiller Park and Martin with prejudice on October 28, 2019. [Dkt. Nos. 373, 374.]

WHEREFORE, Plaintiff, Annabel K. Melongo, and Defendants respectfully request this Honorable Court to enter an Order approving this stipulation and dismissing all claims by Ms. Melongo against Defendants Robert Podlasek; Julie Gunnigle; Kate Garcia; James Dillon; Antonio Rubino; Rich Lesiak; and Cook County (but not against Kyle French or Carol Spizzirri) with prejudice and without costs with each side to bear its own attorneys' fees.

Dated: November 1, 2019

For Plaintiff:

/s/ Julia K. Schwartz

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CERTIFICATE OF SERVICE

I, Julia K. Schwartz, hereby certify that I caused the foregoing to be served on all counsel of record to matter 13-CV-4924 via ECF Filing on November 1, 2019.

/s/ Julia K. Schwartz